IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 21ST DECEMBER 2006 / 30TH AGRAHAYANA 1928

WP(C).No. 22350 of 2005(I)

PETITIONER:

N.S. KISHORE, NALUKANDATHIL HOUSE,
MANAKKAPADY, KARUMALLOOR, N. PARUR.

BY ADV. SRI.T.K.VENUGOPALAN
SRI.SHIBU JOSEPH
SRI.V.DEVAN

RESPONDENTS:

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1. THE REGIONAL TRANSPORT OFFICER,
ERNAKULAM.

2. THE JOINT REGIONAL TRANSPORT OFFICER,
NORTH PARUR.

3. THE TRANSPORT COMMISSIONER,
THIRUVANANTHAPURAM.

BY SENIOR GOVERNMENT PLEADER, SRI D.ANIL KUMAR

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXTS:-

EXT.P1	TRUE COPY OF LETTER OF 1ST RESPONDENT DATED 21/12/2004
EXT.P2	TRUE COPY OF REQUEST OF PETITIONER TO 2ND RESPONDENT DATED 02/02/2005
EXT.P2(a)	TRUE COPY OF ACKNOWLEDGMENT CARD
EXT.P3	TRUE COPY OF LETTER OF PETITIONER TO 1ST RESPONDENT DATED 21/02/2005
EXT.P3(a)	TRUE COPY OF ACKNOWLEDGMENT CARD
EXT.P4	TRUE COPY OF NOTICE DATED 24/02/2005 OF SUB REGIONAL TRANSPORT OFFICER TO THE PETITIONER
EXT.P5	TRUE COPY OF REPLY OF PETITIONER TO JOINT REGIONAL TRANSPORT OFFICER, N.PARUR, DATED 02/03/2005
EXT.P5(a)	TRUE COPY OF ACKNOWLEDGMENT CARD
EXT.P6	TRUE COPY OF PETITION SUBMITTED BY PETITIONER TO 3RD RESPONDENT DATED 16/03/2005
EXT.P6(a)	TRUE COPY OF ACKNOWLEDGMENT CARD
EXT.P7	TRUE COPY OF COMMUNICATION FROM THE JOINT R.T.O., N.PARUR TO THE PETITIONER DATED 01/02/2005
EXT.P8	TRUE COPY OF REPLY OF PETITIONER TO JOINT R.T.O. DATED 10/02/2005
EXT.P8(a)	TRUE COPY OF ACKNOWLEDGMENT CARD
EXT.P9	TRUE COPY OF CHARGE MEMO OF 2ND RESPONDENT DATED 06/06/2005
EXT.P10	TRUE COPY OF REPLY OF PETITIONER TO 2ND RESPONDENT DATED 17/06/2005
EXT.P10(a)	TRUE COPY OF ACKNOWLEDGMENT CARD

\\TRUE COPY //

P.A TO JUDGE

S. SIRI JAGAN, J.

W.P. (C) No. 22350 OF 2005 I

Dated this the 21st day of December, 2006

J U D G M E N T

The petitioner's vehicle was seized alleging offence under the Motor Vehicles Act, which was later compounded on the petitioner paying an amount of Rs.2,000/- as compounding fee, which is evident form Ext.P1. However, although pursuant to Ext.P1, the vehicle has been released to the petitioner, the RC book and permit of the vehicle have not been returned to the petitioner. Instead Ext.P4 notice has been issued to the petitioner to appear for a personal hearing and to produce the vehicle before Motor Vehicle Inspector for inspection. This was followed by a charge memo, Ext.P9 for the same offence which was earlier compounded as evidenced by Ext.P1 order. Petitioner challenges Exts.P4 and P9 in this writ petition. The petitioner has also got a contention that Ext.P7 order directing the petitioner to controvert the vehicle in question as a contract carriage since the vehicle is fitted with 10 seats is also unsustainable in so far as there is no allegation that he has repeated the offence.

2. A statement has been filed by the Government Pleader on behalf of the 2nd respondent, in which it is admitted that offence committed by the petitioner has been compounded by realising a fine of Rs.2,000/-. But their contention is that in spite of that compounding the department is entitled to take departmental action which is contemplated against the petitioner and,

therefore, it is under the such circumstances that the registration certificate and permit of the vehicle are retained. However, the counter affidavit does not disclose as to which of the provisions of the Motor Vehicles Act departmental action is contemplated against the vehicle or the petitioner. In so far as Ext.P9 is concerned, the same relates to the very same offence, which was earlier compounded. In the above circumstances, I am not satisfied that the respondents could legally retain the registration certificate and permit any longer. Accordingly, I quash Exts.P4 and P9 and direct the 2nd respondent to return the RC book and permit of the vehicle bearing registration No.KEE/8240 seized from the petitioner. However, I am not inclined to interfere with Ext.P7, which only directs the petitioner to convert the vehicle as a contract carriage since the vehicle is fitted with 10 seats. When the vehicle is fitted with 10 seats, the respondents are legally empowered to direct the petitioner to convert the vehicle into a contract carriage as done in Ext.P7. Therefore, the petitioner shall comply with Ext.P7 as directed by the 2nd respondent.

The writ petition is disposed of as above.

(S. SIRI JAGAN, JUDGE)

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